



South Carolina House of Representatives

# Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

Vol. 5

March 22, 1988

No. 11

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Printed by the Legislative Council

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## House Week in Review

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With record speed last week, the House considered and approved two of the important bills of this session -- the State Appropriations bill and the Beachfront Management bill. The House also set for special order H.3881, the \$49.6 million supplemental appropriations bill, and the \$29.4 million Capital Reserve Fund appropriations bill.

### The State Budget and other Money Matters

The House began its legislative week a day early, meeting at 1 p.m. last Monday to begin consideration of the \$3 billion State Appropriations Bill. Working steadily, by late Tuesday afternoon the House had given the massive bill second reading approval by a vote of 110-2. Wednesday saw a quick third reading of the budget bill, and in a record three days, the House had approved the budget and sent it to the Senate for consideration.

This is not the last of the money bills to come before the House, however. The supplemental appropriations bill, H.3881, was set for special order consideration today (March 22) after the introduction of bills. H.3882, the Capital Reserve Fund appropriations bill, is set for special order immediately following the supplemental appropriations legislation.

### Beachfront Management

The House hardly finished the state budget before it undertook another important bill, H.3713, Beachfront Management. Set for special order after completion of the state budget, the House gave the beachfront bill quick consideration. The amendment from the House Agriculture and Natural Resources Committee was approved by a 84-12 vote. The House then gave H.3713 second reading Wednesday and third reading Thursday sending it on to the Senate.

This week's *Legislative Update* has a summary of the Beachfront Management bill.

**Highway Safety Conference Committee**

Six members of the Highway Safety bill conference committee have been announced. Appointed by Speaker Sheheen to represent the House in the conference committee deliberations on S.704 are Reps. Beasley, J.C. Johnson and McCain. Senators appointed to the committee are Sens. Lourie, McConnell and J. Verne Smith.

**Special Guests**

The House also saluted the state AAAA championship football team and coaches from Sumter High School and met in joint assembly with the Senate to honor the state Easter Seal representatives and their parents.

## Beachfront Management

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*Last week, the House gave quick approval to H.3713, the Beachfront Management bill. Although the bill moved quickly once it reached the House floor -- it received second reading Wednesday after being set for special order and third reading on Thursday -- this legislation underwent many weeks of consideration in the House Agriculture and Natural Resources Committee. The outcome was an amendment to the original bill, which was ultimately passed by the committee and the full House. Here is a summary of what the amended bill will require.*

### *Introduction*

The opening sections of the bill describe the legislative findings and the state's overall policy toward managing the state's beaches.

#### Among the legislative findings:

- Many miles of South Carolina beaches have been identified as critically eroding.
- That despite the 1976 passage of the Coastal Tidelands and Wetlands Act, the South Carolina Coastal Council does not have adequate jurisdiction to effectively protect the integrity of the beach/dune system. Consequently, without adequate controls, development unwisely has been sited too close to the system. This type of development has jeopardized the stability of the beach/dune system, accelerated erosion and endangered adjacent property.
- The use of armoring in the form of hard erosion control devices such as seawalls, bulkheads and rip-rap to protect structures adjacent to the beach has not proved to be effective. These devices have given a false sense of security to beachfront property owners, and in many instances, have increased the vulnerability of the property to wind and waves while contributing to the deterioration and loss of the dry sand beach.

- It is in both the public and private interest to allow the beach/dune system to follow its natural cycle. This space can be provided only by discouraging new construction in close proximity to the beach/dune system and encouraging those who have erected structures too close to the system to retreat from it.
- Inlet and harbor management practices, including the construction of jetties not designed to accommodate the long shore transport of sand, can deprive the beach/dune system of its natural sand supply. In addition, dredging, which includes disposal of beach quality sand at sea, also deprives the beach/dune system of sand.
- Present funding for the protection, management and enhancement of the beach/dune system is inadequate.
- There is no coordinated state policy for post storm emergency management of the beach/dune system.

Proposed state policy, as outlined in the bill, says in part that South Carolina will:

- Create a comprehensive, long range beach management plan and require local comprehensive beach management plans.
- Severely restrict the use of hard erosion control devices to armor the beach/dune system and encourage their replacement with soft technologies approved by the South Carolina Coastal Council.
- Promote carefully planned nourishment as a means of beach preservation and restoration where economically feasible.
- Preserve existing public access and promote the enhancement of public access.
- Involve local government in long-range comprehensive planning and management of the beach/dune system, and
- Establish procedures and guidelines for the emergency management of the beach/dune system following a significant storm.

*The 40-year Retreat Policy*

The bill states that a 40-year retreat policy must be implemented to restore the beach/dune system to its natural dynamic equilibrium. In order to do this, a baseline must first be established. The baseline for each zone will determine the setback line for beachfront structures.

Establishment of the baseline

Under H.3713, the baseline for:

- *Standard Erosion Zones* would be located at the crest of the primary oceanfront sand dune or where the crest would have been had the shoreline not been altered. A scientific study by professional geologists would be required to determine where the baseline is for each standard erosion zone.
- *Inlets Not Stabilized by Jetties, Terminal Groins or Other Structures* would be located at the most landward point of erosion during the past 40 years.
- *Inlets Stabilized by Jetties, Terminal Groins or Other Structures* would be the actual location of the crest of the primary oceanfront sand dune.

Establishment of the Setback Line

Using the baselines, the setback line for

- *Standard Erosion Zones* would be located landward of the baseline at a distance of 40 times the annual erosion rate. All setback lines must be established no less than 20 feet landward of the baseline, even where the shoreline is stable.
- *Inlet Erosion Zones* would be located landward of the baseline at a distance of 40 times the annual erosion rate. However, all setback lines must be established no less than 20 feet landward of the baseline, even in cases where the shoreline is stable.

- The baseline and setback lines must be established as soon as possible after passage of the bill. The two lines must be reset no later than 10 years after the H.3713 is enacted. Revisions must be made every 5 to 10 years after that.
- Nothing in the act will allow for the seaward movement of the setback line. However, the legislation notes that renourishment may slow down or prevent the landward movement of the setback line.

*Rebuilding and Repairing Damaged Property*

Section 48-39-290 of the bill outlines the steps that may be taken if an existing habitable structure, seaward of the setback line, or an erosion control device is damaged or destroyed after H.3713 goes into effect.

*Habitable Structures*

1. In the case of an existing habitable structure, seaward of the setback line, which is damaged, it may be repaired if:
  - a) The total square footage of the repaired structure does not exceed the total square footage of the original structure, and
  - b) The repaired structure's linear footage facing the coast does not exceed the linear footage facing the coast of the original structure, and
  - c) The repaired structure cannot be any farther seaward than the original structure, and
  - d) All repairs are permitted by local zoning and building authorities.
2. In the case of an existing habitable structure, seaward of the setback line, which is destroyed beyond repair, it may be replaced if:
  - a) The total square footage of the repaired structure does not exceed the total square footage of the original structure, and
  - b) The repaired structure's linear footage facing the coast does not exceed the linear footage facing the coast of the original structure, and
  - c) The repaired structure cannot be any farther seaward than the original structure, and
  - d) All repairs are permitted by local zoning and building authorities, and

- e) Where possible the replaced structure must be moved behind the setback line. If this is not possible, then it must be moved as far landward as possible, and
- f) Any erosion control device protecting the replaced structure must conform to the specifications of this section of the bill (See the following on Erosion Control Devices) and
- g) The owner must renourish the beach in front of the property with at least one and a half times the yearly volume of sand lost due to erosion. This would not apply if the property is undergoing federal, state or local renourishment.

Further, the bill stipulates that if a structure is rebuilt:

- No recreational amenity can be replaced seaward of the setback line. Such amenities would include such things as ....
- No rebuilding may be done in the 20 foot area landward of the baseline.
- Rebuilding is allowed only if the original structure is destroyed beyond repair. If the owner decides not to repair the structure, he must move it.
- Nothing in this section is intended to prevent normal maintenance.

*Erosion Control Device*

3. In the case of an erosion control device, seaward of the setback line, which is damaged less than 50 percent, it maybe repaired if:

- a) Permitted by the local zoning and building authority.

4. In the case of an erosion control device, seaward of the setback line, which is damaged more than 50 percent, it may be replaced if:

- a) The device protects a habitable structure, and
- b) A permit is obtained from the Coastal Council, and
- c) The replacement device is not vertical and conforms to Coastal Council guidelines, and
- d) The replacement device is located as far landward as possible. The most seaward point of the device may to extend any farther seaward than the original vertical seawall or the landward crest of the original sloping revetment (rip-rap).



- e) If the erosion control device is replaced, the owner will be required to renourish the beach in front of the property on a yearly basis with an amount and type of sand approved by the Coastal Council. This amount may not be less than one and a half times the yearly volume of sand lost due to erosion. This would not apply if the property is undergoing federal, state or local renourishment.
- f) If the owner fails to comply with these requirements, the erosion device must be removed.

The bill further states that

- If the owner decides not to repair or rebuild the device, he must remove it.
- Effective 30 years after passage of the bill, all vertical seawall must be replaced with a device that conforms with the same requirements that must be followed to replace an erosion control device (see above).
- Any device protecting an existing highway is exempt from these requirements.

Damage Appraisal Process for an Erosion Control Device

- All original damage appraisals must be conducted by a certified appraiser retained by the property owner.
- The Coastal Council may choose to retain an appraiser to conduct a second appraisal.
- If the two appraisers differ, then a third appraiser is retained. The percentage of damage determined by the third appraiser is final.

Permits for an Erosion Control Device

- Local zoning and building authorities must notify the Coastal Council upon the issuance of any permits required in connection with this section on repairing and rebuilding damaged property.
- The Coast Council must enforce these requirements under the powers and duties given to the Council under state law.

*New Structures*

1. If a new habitable structure is built along the coast, the bill requires that
  - a) No habitable structure bigger than 4,500 square feet may be built seaward of the setback line. And no new structure of any kind may be built in the area from the baseline to 20 feet landward.
  - b) Of the structures 4,500 square feet or less, the square footage must be inclusive of decks, porches, patios and garages. They may be built only on lots platted as of the effective date of the act.
  - c) No new recreational amenities may be constructed seaward of the setback line.
  - d) The new structure must receive permits from the Coastal Council and the local zoning and building authority.
  - e) No permits for new habitable structures may be granted by the Coast Council unless the structure is located as far landward as practicable.
  - f) No erosion control device may be incorporated as an integral part of any new habitable structure.

New erosions control devices

- No new erosion control device shall be allowed seaward of the setback line, except for devices that protect highways.

Property already legally commenced seaward of the setback line may continued if evidenced by:

- All building permits, planned development, planned unit development or master plan approved by a local government by March 1, 1988, or
- If utilities and infrastructure has been installed by March 1, 1988.

*Other Requirements of the Bill*

Beach or Dune Vegetation

The bill prohibits the destruction of beach or dune vegetation seaward of the setback line.

### Coastal Council's Responsibilities

Under the bill, the Coastal Council is responsible for creating a long-range, comprehensive beach management plan. This plan must include the development of a data base and guidelines in coordination with local governments and other agencies. This plan is aimed at

- a) Beach/dune restoration and nourishment.
- b) Maintenance of a dry sand and ecologically stable beach.
- c) Protection of all sand dunes seaward of the setback line.
- d) Protection of endangered species and important habitats.
- e) Regulation of vehicular traffic on the beaches and dunes.
- f) Development of a mitigation policy for construction allowed seaward of the setback line for such items as public access ways, nourishment, vegetation, etc.

In addition, the Council must recommend ways to fund the State Beachfront Management Plan, as well as develop a public awareness program on the importance of the beach/dune system. Further, the Council is directed to work with local government in developing local comprehensive beach management plans.

### Contracts of Sale

Any contract of sale or deed with respect to transfers of real property located seaward of the setback line must contain a disclosure statement. This statement must include the location of the property in relation to the baseline, the setback line, the velocity zone and the local erosion rate.

### Local Government Responsibility

Within two years of the effective date of this bill, local governments, in coordination with the Coastal Council, must prepare a Local Comprehensive Beachfront Management plan. This plan must contain:

- a) An inventory of beach profile data and historic erosion rate data.
- b) An inventory of public beach access and attendant parking along with a plan to enhance public access and parking.
- c) An inventory of all structures located seaward of the setback line.
- d) An inventory of turtle nesting and important habitats and a plan of protection and restoration, if necessary.
- e) A conventional zoning and land use plan consistent with the requirements of this bill for the areas seaward of the setback line.
- f) An analysis of beach erosion control alternatives, including renourishment for the beach under the local government's jurisdiction.
- g) A plan for drainage of the area seaward of the setback line.
- h) A post disaster plan.
- i) A detailed strategy for achieving the goals of this bill by the end of the 40 year retreat period.
- j) A detailed strategy for preserving and enhancing public access.

In addition the bill states that

- The locally developed plan must be implemented within three years of the bill's passage.
- The plan must be updated every five years.
- If a local government fails to establish and enforce a local coastal beach management program, the Coastal Council will impose and implement the program or the State Comprehensive Beach Management Program.
- Further, failure to establish and enforce a local plan by the local government will result in the loss of state funding or shared revenues designed for beach/dune protection or enhancement.

The bill also states that any funding for local government must be distributed in a fair and equitable manner.

#### In-land Areas

The bill specifically states that provisions of the act will not apply to any area at least one-half mile inland from the mouth of an inlet.

## Women in Government 1988

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*March is Women's History Month. One way to measure the progress of women in history is to look at the advances they have made in elective politics. The Center for the American Women and Politics at Rutgers University annually publishes an update of women elected officials. Here is a summary of the center's latest findings on women elected official at the national and state levels.*

### Introduction

According to the Center for the American Woman in Politics at Rutgers University, there are 25 women serving in Congress in 1988. Two states have elected women governors and in one state a women serves as acting governor. The number of women state legislators is almost four times larger than it was 15 years ago.

Despite these gains, women still only hold a small minority of elective offices. At no level of elective office do women hold more than 15.8 percent of the available positions. The total number of women in elective office in 1988 is estimated at 18,000.

### At the National Level

Women hold 25 of the 535 seats in the U.S. Congress. Only two women are in the *U.S. Senate* -- Sen. Nancy Landon Kassebaum, R-Kansas, and Sen. Barbara Mikulski, D-Maryland. The *U.S. House of Representatives* has 23 women members, including 12 Democrats and 11 Republicans. South Carolina 4th District Democratic Congresswomen Liz Patterson is one of them.

### Statewide Elective Offices

Of the 322 statewide executive officers, women hold 41, or 12.7 percent, of those. Two women serve as *governors* -- Democratic Gov. Madeleine Kunin, recently elected to a second term in Vermont, and Republican Gov. Kay A. Orr, elected in 1986 as Nebraska's governor. In addition, following impeachment proceedings

against Arizona Gov. Evan Mecham, Arizona's Democratic Secretary of State Rose Mofford is serving as acting governor.

Five women serve as *lieutenant governor*. They are Martha Griffiths, D-Michigan; Marlene Johnson, DFL-Minnesota; Harriett Woods, D-Missouri; Evelyn Murphy, D-Massachusetts, and Jo Ann Zimmerman, D-Iowa.

In Virginia, Mary Sue Terry, a Democrat was elected *attorney general* in 1985 and is the second woman elected to that post from any state.

Twelve women serve as *secretaries of state*. They are from, Arizona, California, Colorado, Connecticut, Iowa, Minnesota, Nevada, New Mexico, Oregon, Rhode Island, South Dakota and Wyoming.

There are nine women *state treasurers*. They serve in Arkansas, Colorado, Delaware, Idaho, Indiana, Kansas, Louisiana, Ohio and Texas.

#### In the State Legislature

In 1988, 1,175 or 15.8 percent of the 7,461 state legislators in the U.S. are women. Women hold 227 state Senate seats and 948 House seats in 1988. The number of women serving in state legislatures have almost quadrupled since 1969 when 301, or only 4 percent of all state legislators, were women.

In 1988, the ten states with the *highest* percentage of women state legislators are:

<u>State</u>	<u>% Women</u>	<u>State</u>	<u>% Women</u>
New Hampshire	32.6%	Arizona	23.3%
Maine	28.5%	Wyoming	22.3%
Colorado	28.0%	Idaho	21.4%
Vermont	25.6%	Connecticut	21.4%
Washington	25.2%	Wisconsin	21.2%

The party breakdown for women serving in state legislatures in 1988 is 684 Democrats and 482 Republicans. The Nebraska legislature is unicameral and legislators are elected on a non-partisan basis. Every state has at least five women in its statehouse, but only one state, Louisiana, has no women in its state Senate. Of the total number of women legislators, 97 are black.

*Legislative Update, March 22, 1988*

The ten states with the lowest percentage of women state legislators are:

<u>State</u>	<u>% Women</u>	<u>State</u>	<u>% Women</u>
Louisiana	3.5%	Pennsylvania	6.7%
Alabama	5.7%	SOUTH CAROLINA	7.1%
Mississippi	5.7%	Utah	7.7%
Kentucky	5.8%	Oklahoma	8.7%
Arkansas	6.7%	Tennessee	9.1%

Percentages of Women in Elective Office

Here is a breakdown of the percentage of women elected officials at the state and national level for selected year from 1975 to the present.

<u>Office</u>	<u>1975</u>	<u>1976</u>	<u>1979</u>	<u>1981</u>	<u>1983</u>	<u>1985</u>	<u>1987</u>	<u>1988</u>
U.S. Congress	4%	4%	3%	4%	4%	5%	5%	5%
Statewide Elective	10%	8%	11%	11%	13%	14%	15%	13%+
State Legislatures	8%	9%	10%	12%	13%	15%	16%	16%
County Boards	3%	4%	5%	6%	8%	8%*	9%	NA
Mayors & Municipal	4%	8%	10%	10%	NA	14%	NA	NA

\*1984 figure

Source: Center for the American Woman and Politics, Eagleton Institute for Politics, Rutgers University, News Brunswick, N.J.

## Bills Introduced

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Here is a sampling of the bills introduced in the House during the previous week. Not all House bills introduced during that period are featured here. The bills are organized by the standing committees to which they were referred.

### *Agriculture and Natural Resources Committee*

State Bug (S.1295, Senate General Committee). Probably no bill, aside from the State Appropriations Bill, has gotten as much media attention as this one. This bill would make the Carolina mantid, Stagmomantis carolina (Johannson) -- fancy name for the praying mantis -- South Carolina's official state insect.

The bill even stipulates what the write-up in the *Legislative Manual* ought to say. And we quote, "The Carolina mantid, Stagmomantis carolina (Johannson), or praying mantis, was designated the state insect by the General Assembly by Act \_\_\_\_ of 1988, for the following reasons: it is a native beneficial insect that is easily recognizable throughout the state; it symbolizes the importance of the natural science of entomology and its special role in all forms of agriculture in helping to control harmful insects; and it provides a perfect specimen of living science for the school children of this State."

### *Education and Public Works Committee*

School-based Enterprise Act (S.1286, Senate Education Committee). This bill would create the School-based Enterprise Act. Although the bill gives only a brief description of school-based enterprise programs themselves -- that they would give students at public schools, colleges and universities the chance to plan and operate their own small businesses -- the bill does create two boards. These boards are the 7-member School Based Enterprise Interagency Board and the 11-member School Based Enterprise Program Advisory Council. Both panels would encourage and assist in the development of school-based enterprise programs. The first year fiscal impact is estimated at \$17,863.



Hilton Head Scenic Highway (H.3993, Rep. Cork). Under this bill, the connector route from Interstate-95 and secondary Road 88 in Jasper County extending east to S.C. 278 in Beaufort County would be designated the "Hilton Head Scenic Highway." PRT would be required to mark it and promote it as such. As a scenic route, the bill would also prohibit any off-premises, outdoor advertising along this scenic stretch to Hilton Head.

School Bus Drivers and Criminal Background Checks (H.3997, Rep. E.B. McLeod). This bill, if enacted, would require SLED, in cooperation with the State Highway Department, to do a criminal background check on every person seeking or renewing a certificate as a school bus driver. Under the bill, the person could not be certified as a driver if he or she had committed a felony, violated DUI or any similar laws whether for first offense or any subsequent offense, or violated criminal sexual conduct laws (any degree) or pornography or obscenity laws if in any of these cases the victim involved was 18 or younger.

*Judiciary Committee*

Divorce (H.3987, Rep. Huff). This joint resolution proposes repealing that section of the State Constitution which allows divorce on the grounds of adultery, desertion, physical cruelty, continuous separation for a period of at least a year, or habitual drunkenness. In addition to passing the General Assembly, H.3987 also would have to pass the voters in November.

*Ways and Means Committee*

Flea Market Retail Licenses (H.3951, Rep. Kirsh). Under this bill, people using a stall or other facility at a flea market to sell things would have to get a retail license. The bill gives flea market owners the responsibility of insuring all people are properly licensed prior to renting space. Owners who do not comply could have their licenses revoked and face misdemeanor charges.